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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,236	02/01/2002	William Brent Wilson	P21748	8492

7055 7590 06/10/2004

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EXAMINER

AN, SHAWN S

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 06/10/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/060,236

Applicant(s)

WILSON, WILLIAM BRENT

Examiner

Shawn S An

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-20 is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. As per Applicant's instructions in Paper 8 as filed on 3/31/04, claims 5, 8, 12,-13, 18, and 20 have been amended.

Response to Remarks

2. Applicants' remarks filed on 3/31/04 have been fully considered but they are not persuasive.

The Applicants present arguments of which the cited prior art references fail to disclose such features as A) determining a throttling amount based on computational processing power (decoder processing capabilities) and B) controlling the computational processing of the decoder using (based on) the throttling amount.

However, after careful scrutiny of the previously cited prior art references, the Examiner must respectfully disagree, and maintain the grounds of rejection for the reasons that follow.

In response to argument A), Applicant contends that Stifle et al's throttling is for CATV network and not for a decoder as recited in the claims. The Examiner disagrees. Stifle et al clearly discloses a decoder (Fig. 1, 110) for the CATV (video) network. Furthermore, Stifle et al discloses that throttling action s desirably autonomous, wherein each subscriber decoder unit (110) can regulate its own transmission without the necessity for a centralized control (col. 11, lines 46-54). Therefore, determining the throttling amount based on computational processing power is met by the decoder's (110) throttling action (amount) based on regulating (computational processing power) its own transmission. Regulating the transmission of data inherently requires processing power so as to eliminate the overhead bandwidth. Moreover, Liu et al discloses measuring of processing power required to decode bitstream of video data (Col. 11, lines 43-56).

In response to argument B), as discussed in the above argument, controlling the computational processing of the decoder using (based on) the throttling amount is met by the Stifle et al's decoder (110) throttling action (amount) based on regulating (controlling computational processing) its own transmission.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4-5, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al (5,680,482) in view of Stifle et al (4,633,462) as previously discussed in the last Office action as Paper 7.

5. Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al (5,680,482) in view of Stifle et al (4,633,462) and Boyce et al (5,635,985) as previously discussed in the last Office action as Paper 7.

6. Claims 2-3 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al and Stifle et al as applied to claims 1 and 5 above, respectively, and further in view of Malladi et al. (5,818,532) as previously discussed in the last Office action as Paper 7.

Allowable Subject Matter

7. Claims 14-20 are allowed as previously discussed the last Official action as Paper 3.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to **Shawn S An** whose telephone number is 703-305-0099. The Examiner can normally be reached on Flex hours (10).

10. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SSA

Primary Patent Examiner

6/8/04